

IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION

TRAVELERS CASUALTY & SURETY COMPANY  
OF AMERICA

PLAINTIFF

VS.

CAUSE NO. 2:13-cv-101-KS-MTP

HUB MECHANICAL CONTRACTORS, INC.,  
CARREME B. CURRY, GEORGE C. CURRY,  
CINDY B. CURRY, MARGIE C. FAILS, PHILLIP A. FAILS  
AND ARTHUR C. HENDERSON

DEFENDANTS

**ANSWER AND AFFIRMATIVE DEFENSES OF**  
**TRAVELERS CASUALTY & SURETY COMPANY OF AMERICA**  
**TO COUNTERCLAIM OF GEORGE C. CURRY, JR. AND CINDY B. CURRY**

COMES NOW the Plaintiff, Travelers Casualty & Surety Company of America (“Travelers”), by and through its attorney of record, and submits its Answer and Affirmative Defenses to the Counterclaim filed by Defendants, George C. Curry, Jr. and Cindy B. Curry (the “Curry Defendants”), as follows:

**FIRST AFFIRMATIVE DEFENSE**

The Curry Defendants’ Counterclaim fails to state a claim upon which relief may be granted and should be dismissed.

**SECOND AFFIRMATIVE DEFENSE**

Travelers breached no duty owed to the Curry Defendants

**THIRD AFFIRMATIVE DEFENSE**

Teb Jones is not the agent of Travelers and therefore no liability may be imputed to Travelers for any actions or inactions of Teb Jones.

FOURTH AFFIRMATIVE DEFENSE

The Curry Defendants have incurred no recoverable damages.

FIFTH AFFIRMATIVE DEFENSE

Attorney's fees are only to be awarded under Mississippi law if provided for by contract or statute, or if there is an award of punitive damages. The Curry Defendants' claim for attorney's fees is therefore improper and should be dismissed.

SIXTH AFFIRMATIVE DEFENSE

Attorney's fees are not proper in this instance, under any theory whatsoever, and should not be awarded.

SEVENTH AFFIRMATIVE DEFENSE

The Curry Defendants waived their right to a jury trial.

EIGHTH AFFIRMATIVE DEFENSE

Travelers reserves the right to assert any additional defenses, as applicable, as they are discovered prior to the trial of this matter.

And now, Travelers responds to the Counterclaim, paragraph by paragraph, as follows:

V.

Travelers denies that Teb Jones is an agent for Travelers. Travelers admits that it was aware that George Curry was leaving Hub Mechanical Contractors, Inc. ("Hub"), but denies that it received a letter requesting that the Curry Defendants be removed from the Indemnity Agreement until June 12, 2013. Travelers denies the remaining allegations of the first paragraph of Paragraph V of the Curry Defendants' Counterclaim. As for the second paragraph of Paragraph V, Travelers is without sufficient information to admit or deny the allegations and therefore denies same.

VI.

Travelers denies the allegations of Paragraph VI of the Curry Defendants' Counterclaim.

VII.

Travelers denies that Teb Jones is an agent for Travelers. Travelers would state that the email exchange between Stacy O'Neal, an underwriter for Travelers, and Teb Jones, the agent for Hub, as shown by Exhibit 2 to the Curry Defendants' Counterclaim, speaks for itself and is the best evidence thereof. Travelers therefore denies the allegations of Paragraph VII of the Curry Defendants' Counterclaim.

VIII.

Travelers is without sufficient information to admit or deny the allegations of Paragraph VIII of the Curry Defendants' Counterclaim and therefore denies same.

IX.

Travelers is without sufficient information to admit or deny the allegations of Paragraph IX of the Curry Defendants' Counterclaim and therefore denies same.

X.

Travelers admits that the Curry Defendants' provided some documentation to Travelers after the institution of this lawsuit and that Travelers was agreeable to staying the litigation as to the Curry Defendants until such time as the information could, if at all, be verified. Travelers denies the remaining allegations of Paragraph X of the Curry Defendants' Counterclaim.

XI.

Travelers denies the allegations of Paragraph XI of the Curry Defendants' Counterclaim.

XII.

Travelers admits that it was agreeable to staying the litigation as to the Curry Defendants

until such time as the information alleged by the Curry Defendants could, if at all, be verified. Travelers denies the remaining allegations of Paragraph XII of the Curry Defendants' Counterclaim.

XIII.

Travelers denies that the Curry Defendants have sustained any damages and denies that it is liable to the Curry Defendants for any amount under any damage theory whatsoever. Travelers denies the allegations of Paragraph XIII of the Curry Defendants' Counterclaim.

As for the "WHEREFORE PREMISES CONSIDERED" Paragraph of the Curry Defendants' Counterclaim, Travelers denies that the Curry Defendants should be dismissed from the lawsuit and denies that Travelers is liable to the Curry Defendants for any amount under any damage theory whatsoever.

WHEREFORE, PREMISES CONSIDERED, Travelers Casualty & Surety Company of America respectfully requests that the Counterclaim of George C. Curry, Jr. and Cindy B. Curry be dismissed with prejudice, with all costs assessed to George C. Curry, Jr. and Cindy B. Curry. Travelers Casualty & Surety Company of America requests any further relief to which it may be entitled.

This the 30<sup>th</sup> day of April, 2014.

Respectfully submitted,

KREBS, FARLEY & PELLETERI, PLLC

By: /s/ Ellie B. Word  
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**CERTIFICATE OF SERVICE**

I, Ellie B. Word, do hereby certify that I have this day served via the ECF system, a true and correct copy of the above and foregoing Answer and Affirmative Defenses to the Counterclaim of George C. Curry, Jr. and Cindy B. Curry to the following:

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This the 30<sup>th</sup> day of April, 2014.

/s/ Ellie B. Word  
ELLIE B. WORD